

104TH CONGRESS
1ST SESSION

S. 1404

To enhance restitution to victims of crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1995

Mr. GRASSLEY (for himself and Mr. KYL) introduced the following bill; which
was read twice and referred to the Committee on the Judiciary

A BILL

To enhance restitution to victims of crime, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Victim Restitution En-
5 hancement Act of 1995”.

6 **SEC. 2. RESTITUTION.**

7 Section 3663 of title 18, United States Code, is
8 amended—

9 (1) in subsection (f)—

10 (A) by striking paragraphs (1) through

11 (3);

1 (B) by inserting the following new para-
2 graph:

3 “(1)(A) The order of restitution shall require the de-
4 fendant to—

5 “(i) submit a sworn statement listing all assets
6 owned or controlled by the defendant; and

7 “(ii) make payment immediately, unless, in the
8 interest of justice, the court provides for payment on
9 a date certain or in installments.

10 “(B) If the court provides for payment in install-
11 ments, the installments shall be in equal monthly pay-
12 ments over a payment period prescribed by the court un-
13 less the court establishes another schedule.

14 “(C) If the order of restitution permits other than
15 immediate payment, the payment period shall not exceed
16 5 years, excluding any term of imprisonment served by
17 the defendant for the offense.”;

18 (C) by redesignating paragraph (4) as
19 paragraph (2); and

20 (D) by amending paragraph (2), as so re-
21 designated, by striking “under this section,”
22 and all that follows through the end of the
23 paragraph and inserting “under this section.”;
24 (2) in subsection (h)—

1 (A) by striking “(h) An order” and insert-
2 ing “(h)(1) Subject to paragraph (2), an
3 order”;

4 (B) by redesignating paragraphs (1)(A),
5 (1)(B), and (2) as subparagraphs (A)(i),
6 (A)(ii), and (B), respectively; and

7 (C) by adding at the end the following new
8 paragraph:

9 “(2) Notwithstanding any other law that applies a
10 shorter time limitation, a victim may bring an action to
11 enforce an order of restitution on or until the date that
12 is 20 years after the date of the order.”; and

13 (3) by adding at the end the following new sub-
14 sections:

15 “(j) No discharge of debt pursuant to a bankruptcy
16 proceeding shall render an order of restitution under this
17 section unenforceable or discharge liability to pay restitu-
18 tion.

19 “(k)(1) An order of restitution imposed pursuant to
20 this section or by any State court is a lien in favor of
21 the designated agent for a victim of crime entitled to res-
22 titution by reason of any Federal or State law, or if such
23 victim cannot be identified, in favor of the United States
24 or any State agency charged with providing restitution to
25 victims of crime, upon all property belonging to the person

1 against whom restitution is ordered. The lien arises at the
2 time of the entry of the order and continues until the li-
3 ability is satisfied, remitted, or set aside. The court order-
4 ing restitution shall notify all potential claimants entitled
5 to restitution. On application of the person against whom
6 restitution is ordered, the Attorney General or any other
7 person or entity holding a lien pursuant to this section,
8 shall—

9 “(A) issue a certificate of release, as described
10 in section 6325 of the Internal Revenue Code, of any
11 lien imposed pursuant to this section, upon his ac-
12 ceptance of a bond described in section 6325(a)(2)
13 of the Internal Revenue Code; or

14 “(B) issue a certificate of discharge, as de-
15 scribed in section 6325 of the Internal Revenue
16 Code, of any part of the person’s property subject to
17 a lien imposed pursuant to this subsection, upon his
18 determination that the fair market value of that part
19 of such property remaining subject to and available
20 to satisfy the lien is at least three times the amount
21 of the restitution ordered.

22 “(2) The provisions of sections 6323, 6331, 6332,
23 6334 through 6336, 6337(a), 6338 through 6343, 6901,
24 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701,
25 and 7805 of the Internal Revenue Code of 1986 and of

1 section 513 of the Act of October 17, 1940 (54 Stat.
2 1190), apply to an order of restitution and to the lien im-
3 posed by paragraph (1) as if the liability of the person
4 against whom restitution is ordered were for an internal
5 revenue tax assessment where the Attorney General is the
6 lienholder, except to the extent that the application of such
7 statutes is modified by regulations issued by the Attorney
8 General to accord with differences in the nature of the
9 liabilities. For the purposes of this paragraph references
10 in the preceding sections of the Internal Revenue Code
11 of 1986 to 'the Secretary' shall be construed to mean 'the
12 Attorney General' and references in those sections to 'tax'
13 shall be construed to mean 'order of restitution'.

14 “(3) A notice of the lien imposed by paragraph (1)
15 shall be considered a notice of lien for taxes payable to
16 the United States for the purposes of any State or local
17 law providing for the filing of a notice of a tax lien. The
18 registration, recording, docketing, or indexing, in accord-
19 ance with section 1962 of title 28, United States Code,
20 of the judgment under which an order of restitution is im-
21 posed shall be considered for all purposes as the filing pre-
22 scribed by section 6323(f)(1)(A) of the Internal Revenue
23 Code of 1986.

24 “(4) Notwithstanding any other provision of this sub-
25 section, an order of restitution may be enforced by execu-

1 tion against the property of the person against whom it
2 is ordered in like manner as judgments in civil cases.

3 “(5) No discharge of debts pursuant to a bankruptcy
4 proceeding shall render a lien under this section unen-
5 forceable.

6 “(6)(A) If a person against whom restitution is or-
7 dered and whose assets are subject to a lien under this
8 subsection files any civil action seeking money damages,
9 including an action filed during a period of incarceration,
10 such person shall serve notice, at the expense of that per-
11 son, of the filing of the action upon each person entitled
12 to receive restitution, or the designated agent of such per-
13 son, and the Attorney General.

14 “(B) Failure to timely provide actual notice shall be
15 grounds for dismissal of the underlying civil action.

16 “(C) A person entitled to receive restitution under
17 this section, the Office of Victims of Crime of the Depart-
18 ment of Justice, or any agency or instrumentality of any
19 State charged with providing restitution to victims of
20 crime, may intervene in the civil action described in sub-
21 paragraph (A) if the court determines that such interven-
22 tion would be in the interests of justice.”.

23 **SEC. 3. COSTS RECOVERABLE.**

24 Section 1918(b) of title 28, United States Code, is
25 amended by inserting before the period the following: “,

- 1 including any amount advanced to purchase contraband
- 2 in a sting operation during the investigation resulting in
- 3 the conviction''.

